HIGH COURT OF JUDICATURE AT BILASPUR : CHHATTISGARH

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, C.J.

Writ Petition No. 3677 OF 1999.

PETITIONER	:	Manish Kumar Jain, son of Shri Bhagchand Jain, Proprietor of Manish Travells, opposite Civil Court, Durg, Distt Durg (MP).
	Versus	
RESPONDENTS	1.	The State of M.P. through the Secretary, Department of Transport, Bhopal (MP).
	2.	The Tax Officer / Addl. Regional Transport Authority Officer, Durg (MP).

Present : Shri B.K. Rawat, learned counsel for the petitioner.
Shri Yashwant Singh, learned G.A. for the State / respondents.

(ORAL ORDER)
(Passed on 20th July, 2006)

The petitioner is the owner of tourist vehicle bearing registration No. MP 24-C 1701. The said vehicle was covered under the regular All India Tourist Permit No. 363/STA/TOB/93. According to the petitioner, he had paid all the taxes as per the prescribed rate and in terms of the Notification dated 01-10-1992 and he is not liable to pay any penalty. When the matter stood thus, the Tax Officer / Regional Transport Authority, Durg, the 2nd respondent herein, served a demand notice dated 02-07-1999 on the petitioner demanding a sum of Rs. 56,000/- towards penalty under Section 13 of the M.P. Motoryan Karadhan Adhiniyam, 1991(for short "the Adhiniyam") read with Rule 10 of M.P. Motoryan Karadhan Rules, 1991 (for short "the Rules"). At that stage, this writ petition was filed on 06-08-1999 questioning the validity of the same.

Opposing the writ petition, reply dated 14-10-1999 and additional return dated 03-08-2000 are filed. Although, the reply and additional return are filed, necessary details are not set out to appreciate the question whether the petitioner is liable to pay penalty under Section 13 of the Adhiniyam read with Rule 10 of the Rules. The respondents ought to have disclosed the necessary details in their returns to show that the petitioner is liable to pay penalty, particularly, in the context of the definite case of the petitioner that he in fact had paid all the taxes as per the prescribed rate and also the difference of tax as enhanced by the Notification dated 01-10-1992. Moreover, there is no dispute between the parties that before issuance of the demand notice, the 2nd respondent did not issue any notice to the petitioner to fix his liability to pay the penalty.

3. In the result, I allow the writ petition and direct that the impugned demand notice be treated as notice only. The petitioner is granted three weeks' time to file his objections, if any, to the notice. The 2nd respondent is directed to consider the objections that may be filed by the petitioner and fix the liability of the petitioner to pay penalty, if he is liable under the law, in accordance with law and the enhanced rate vide Notification dated 01-10-1992. No costs.

Sd/-
Chief Justice

Subby